

232170

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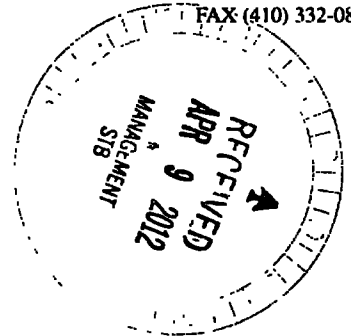
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Office of Proceedings

APR 9 - 2012

Part of
Public Record

April 9, 2012

600 BALTIMORE AVENUE, SUITE 301
TOWSON, MARYLAND 21204-4022
(410) 296-2250 • (202) 466-6532
FAX (410) 332-0885



Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

RE: Docket No. AB-585 (Sub-No. 5X), *Dallas, Garland & Northeastern Railroad Company—Discontinuance of Trackage Rights Exemption—in Dallas County, Texas (Elam Branch)*

Dear Ms. Brown:

Enclosed are the original and 10 copies of a Verified Notice of Exemption for the Dallas, Garland & Northeastern Railroad Company ("DGNO") to discontinue service over an approximately 6.04-mile line of railroad known as the Elam Branch between approximately milepost 308.80, near Elam, TX, and approximately milepost 314.84 near Briggs, Dallas County, TX. Also enclosed are a check from CERA for the filing fee of \$3,600. and a disc containing a WORD version of the Petition and a pdf.

Please time and date stamp the extra copy of this letter and the Verified Notice of Exemption and return it in the enclosed prepaid envelope. Thank you for your assistance.

If you have any questions, please call or email me.

Sincerely yours

FILED

APR 9 2012

**SURFACE
TRANSPORTATION BOARD**

Melanie B. Yasbin
Attorney for:
Dallas, Garland & Northeastern Railroad Company

Enclosure

FEE RECEIVED

APR 9 - 2012

**SURFACE
TRANSPORTATION BOARD**

232170

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-585 (Sub-No. 5X)

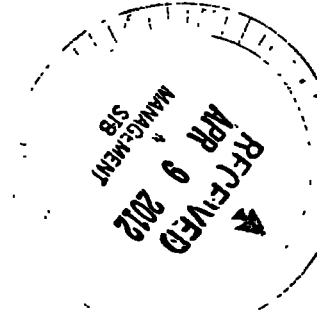
DALLAS, GARLAND & NORTHEASTERN RAILROAD COMPANY—
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION— IN DALLAS
COUNTY, TX

VERIFIED NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

APR 9 - 2012

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Public Record



Scott G. Williams, Esq.
Senior Vice President and General Counsel
RailAmerica, Inc.
7411 Fullerton Street
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Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
600 Baltimore Avenue
Suite 301
Towson, MD 21204
(410) 296-2250

Attorneys for: Dallas, Garland &
Northeastern Railroad, Inc.

Dated: April 9, 2012

FILED

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**SURFACE
TRANSPORTATION BOARD**

FEE RECEIVED

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**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-585 (Sub-No. 5X)

RECEIVED
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MANAGEMENT
STB

DALLAS, GARLAND & NORTHEASTERN RAILROAD COMPANY—
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION— IN DALLAS
COUNTY, TX

VERIFIED NOTICE OF EXEMPTION

Dallas, Garland & Northeastern Railroad Company (“DGNO”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for DGNO to discontinue trackage rights over an approximately 6.04-mile line of railroad known as the Elam Branch line between approximately milepost 308.80, near Elam, TX, and approximately milepost 314.84 near Briggs, Dallas County, TX (the “Line”). DGNO acquired by assignment from Union Pacific Railroad Company (“UP”) exclusive trackage rights over the Line which is owned by Dallas Area Rapid Transit (“DART”).¹ In 2003, the Board granted the Regional Rail Right of Way Company (“RRROW”), a Class III rail carrier and Texas corporation created by DART, an exclusive, perpetual freight rail operating easement and all attendant freight rail common carrier obligations over the Line.² DGNO continued to serve the Line under its trackage rights agreement with DART and UP. Upon discontinuance of service by DGNO over the Line, RRROW will continue to be a common carrier authorized to operate on the Line.

¹ The Surface Transportation Board (“Board”) granted DGNO authority to acquire the trackage rights in *Dallas, Garland & Northeastern Railroad, Inc.—Trackage Rights Exemption—Dallas Area Rapid Transit*, STB Finance Docket No. 34248 (STB served September 12, 2002).

² *Regional Rail Right of Way Company—Acquisition and Operation Exemption—Lines of Dallas Area Rapid Transit*, STB Finance Docket No. 34347 (STB served June 3, 2003).

No local rail traffic has moved over the Line during the past two years. Any overhead rail traffic can be rerouted over other rail lines.

Based on information in the possession of DGNO, the Line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

There are no local shippers on the Line. The only customer on the Line, Dal Tile, which was located at milepost 309, closed down in 2009.

1. Proposed consummation date. The proposed consummation date is May 29, 2012.
2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A.
3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant. Dallas, Garland & Northeastern Railroad, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105. DGNO is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. DGNO seeks to use the class exemption at 49 C.F.R. § 1152.50 to discontinue trackage rights over an approximately 6.04-mile line of railroad known as the Elam Branch line between approximately milepost 308.80, near Elam, TX, and approximately milepost 314.84 near Briggs, TX.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Melanie B. Yasbin, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, fax (410) 332-0885, and email Melanie@lgraillaw.com.

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses. The Line traverses ZIP Code 75210, 75227, and 75217.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

DGNO is only discontinuing service over the Line; it is not abandoning the Line. Therefore, DGNO does not believe that the property is available for public purposes.

4. The level of labor protection. The interests of railroad employees who may be adversely affected by the proposed discontinuance of trackage rights will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

5. Certification. A certificate of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) is attached as Exhibit C.

6. Combined Environmental and Historic Report. DGNO's proposed discontinuance of trackage rights is not subject to environmental and historic reporting requirements under 49 C.F.R. 1105.6(c)(6) and 1105.8(a) and (b). STB approval is required for RRROW and/or DART to abandon any portion of the Elam Branch.

Scott G. Williams, Esq.
Senior Vice President and General Counsel
RailAmerica, Inc.
7411 Fullerton Street
Suite 300
Jacksonville, FL 32256
(904) 538-6329

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Gitomer", written over the typed name.

Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
600 Baltimore Avenue
Suite 301
Towson, MD 21204
(410) 296-2250

Attorneys for: Dallas, Garland &
Northeastern Railroad, Inc.

Dated: April 9, 2012

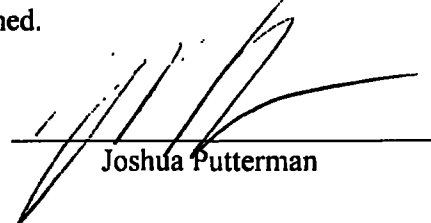
EXHIBIT A—VERIFICATION AND CERTIFICATION

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF FLORIDA)
)ss.
COUNTY OF DUVAL)

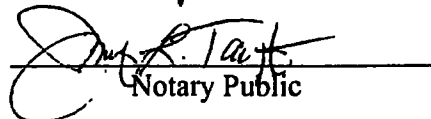
I, Joshua Putterman being duly sworn depose and state that I am a Vice President of Dallas, Garland & Northeastern Railroad Company ("DGNO"), that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

I hereby certify that no local traffic has moved over the 6.04-mile line of railroad known as the Elam Branch line between approximately milepost 308.80, near Elam, TX, and approximately milepost 314.84 near Briggs, Dallas County TX, for at least two years prior to the date hereof, and that any overhead traffic on the line can be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of DGNO by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.


Joshua Putterman

SUBSCRIBED AND SWORN TO before me this 5th day of April 2012.

My Commission Expires: 6/26/2013


Notary Public

JENNIFER L. TAYLOR

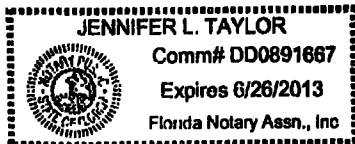


EXHIBIT B—MAP OF LINE

Google maps Address Dallas, TX

Get Google Maps on your phone

Text the word "GMAPS" to 466453

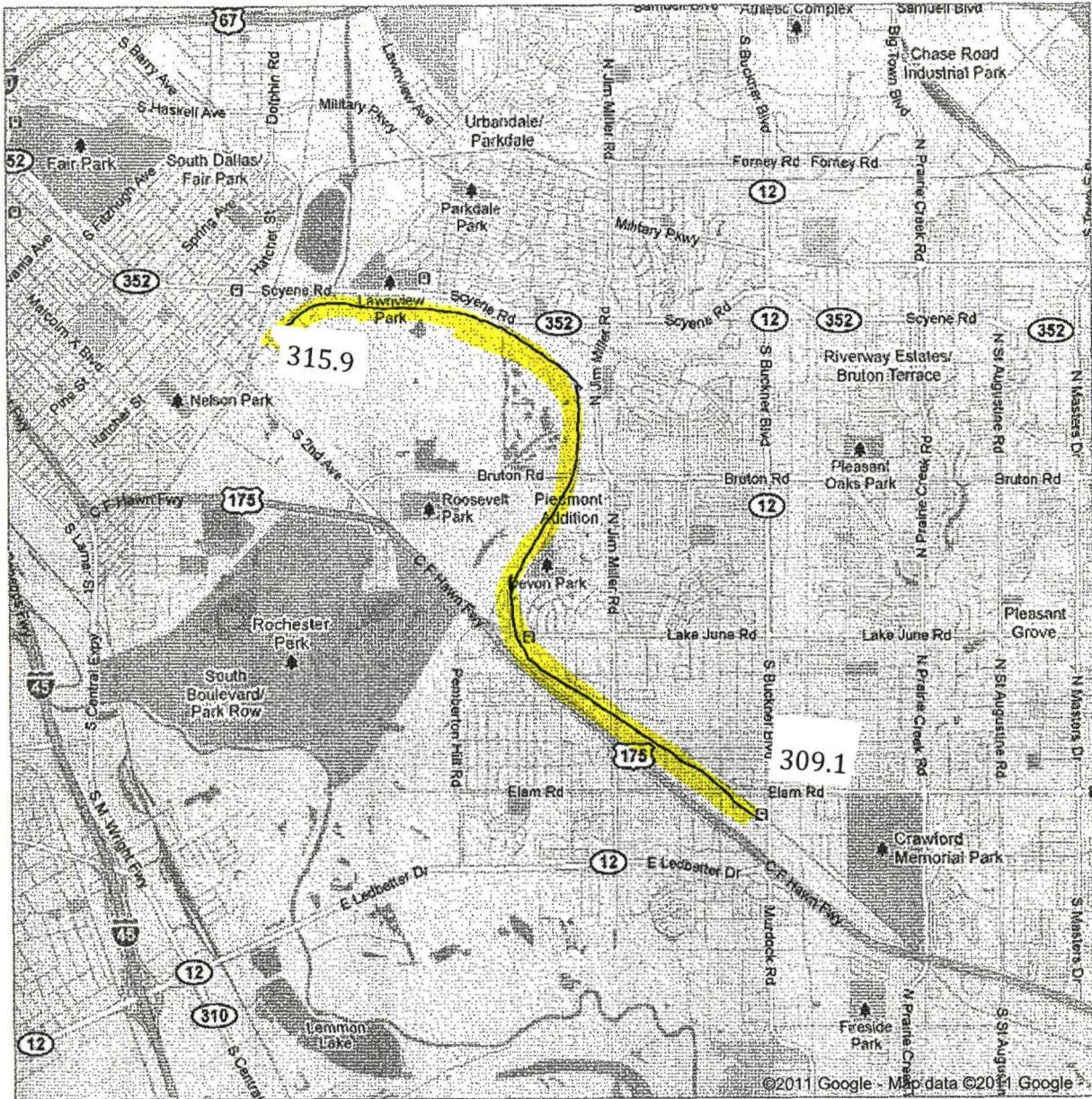
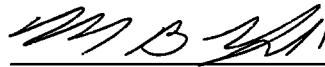


EXHIBIT C—CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed discontinuance of trackage rights in Docket No. AB-585 (Sub-No. 5X), was mailed via first class mail on March 28, 2012, to the following parties: Texas Public Utilities Commission; Military Surface Deployment and Distribution Command Transportation Engineering Agency, Railroads for National Defense; Rivers, Trails and Conservation Assistance Program National Park Service; U.S. Department of Interior, National Park Service, Conservation and Outdoor Recreation Programs; and U.S. Department of Agriculture, Chief of the Forest Service.



Melanie B. Yasbin
April 6, 2012

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed discontinuance of trackage rights in Docket No. AB-585 (Sub-No. 5X), was advertised on March 29, 2012 in the Daily Commercial Record, a newspaper of general circulation in Dallas County, TX, as required by 49 C.F.R. § 1105.12.

A handwritten signature in black ink, appearing to read 'MBY', is written over a horizontal line.

Melanie B. Yasbin

April 6, 2012

Public Notice

Dallas, Garland & Northeastern Railroad Company ("DGNO") gives notice that on or about April 9, 2012, it intends to file with the Surface Transportation Board,

Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F, permitting DGNO to discontinue trackage rights over approximately 6.04 miles of line in Dallas County, TX, between milepost 308.80 and milepost 314.84, which traverses through United States Postal Service ZIP Code 75210, 75227, and 75217. This proceeding will be docketed as No. AB-585 (Sub-No. 5X).

The proposed discontinuance is not subject to the Board's environmental and historic reporting requirements. 49 C.F.R. 1105.6(c) and 1105.8 (b). Interested persons may make inquiries regarding environmental matters by writing the Board's Office of Environmental Analysis, Surface Transportation Board, Washington, DC 20423 or by calling the Office of Environmental Analysis at 202-245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Public use conditions and rail banking/trail use are not available in proceedings involving only discontinuance and not an abandonment. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the Chief, Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the Board's Office of Congressional and Public Services at 202-245-0233. Copies of any comments or requests for conditions should be served on the applicant's representative: Melanie B. Yasbin, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, 410-296-2205, email at Melanie@lgrailaw.com.

PUBLISHER'S AFFIDAVIT

The State of Texas

COUNTY OF DALLAS

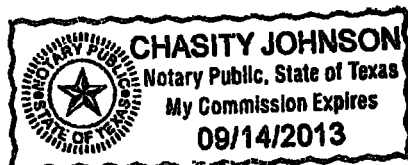
BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC in and for said County, State of Texas, this day personally came and appeared THE PUBLISHER, to me well known, and who after being by me duly sworn, did depose and say:

That he is the publisher of THE DAILY COMMERCIAL RECORD, a daily Newspaper published at Dallas, Dallas County, Texas, and that the notice hereto attached was published in said newspaper on the following dates, to wit:

March 29, 2012

E. NUEL CATES, JR.
Publisher

Sworn to and subscribed before me this 29 day of March, 2012.



Chasity Johnson
Notary Public, Dallas County, Texas